

APPEAL NO. 030075
FILED FEBRUARY 18, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on November 19, 2002. The hearing officer determined that the respondent (claimant) had disability from January 19, 2001, through the date of the CCH.

The appellant (carrier) appealed, contending that a prior CCH had determined that the claimant did not have disability through January 18, 2001, and there had been no change of condition to warrant a finding of disability on January 19, 2001, and beyond. The claimant responded, urging affirmance.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer has become final pursuant to Section 410.169.

Records of the Texas Workers' Compensation Commission (Commission) show that the hearing officer's decision was signed for by the carrier's Austin representative on December 12, 2002. Section 410.202 and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)), require that an appeal, to be timely, must be filed no later than the 15th day after the date of receipt of the hearing officer's decision and received by the Commission no later than the 20th day after the date of receipt of the hearing officer's decision. Section 410.202 was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code from the computation of time in which to file an appeal. Section 410.202(d). Rule 143.3(c) provides that an appeal is presumed to have been timely filed if it is mailed no later than the 15th day after the date of receipt of the hearing officer's decision and received by the Commission no later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be satisfied in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 002806, decided January 17, 2001.

The carrier's appeal recites that it received the hearing officer's decision and order on December 12, 2002. Consequently, using the referenced calculations, the carrier's appeal, to be timely, must have been filed or mailed no later than Wednesday January 8, 2003, and received by the Commission no later than Wednesday January 15, 2003. The carrier recites that the appeal was "filed" on December 27, 2002, and the claimant's response indicated that she received the carrier's appeal on December 30, 2002; however, the Commission did not receive the carrier's request for review via facsimile transmission until January 17, 2003.

Our review of the file does not indicate what happened to the document that the carrier states was "filed" on December 27, 2002, and we can only speculate that the

carrier's fax was sent after it was ascertained that the appeal had never been received. In any event, the carrier's appeal, having been received after January 15, 2002, is untimely.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked, and the decision and order of the hearing officer have become final under section 410.169.

The true corporate name of the insurance carrier is **AMERICAN HOME ASSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS, SUITE 750, COMMODORE 1
AUSTIN, TEXAS 78701.**

Thomas A. Knapp
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge